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LIVINGSTON COUNTY SHERIFF



THOMAS J. DOUGHERTY, SHERIFF

MATTHEW D. BEAN, UNDERSHERIFF

January 6th, 2014

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW,
Room TW-A325
Washington, DC 20554

Re: WC Docket No. 12-375

Dear Secretary Dortch:

As the County Sheriff in Livingston County, New York, I am writing to support the Petition for Stay filed by the Correctional Institutions in the above-referenced docket on November 12, 2013. The September 26, 2013 Order adopted by the Federal Communications Commission ("FCC"), drastically changes what rates may be charged for inmate calling services ("ICS") and how those rates are to be calculated. While I share the FCC's concerns about the ability of inmates to communicate with their loved ones, as Sheriff I cannot support the approach taken by the FCC in the Order. Additionally, I want to comment on the proposal of the FCC to treat all inmate calls as interstate calls, thus triggering any caps or limitations not only on state to state calls, but on any calls that an inmate makes from a county jail.

The Order, and the proposal to treat all inmate calls as interstate calls, severely compromise the ability of corrections officials to manage and oversee public safety and security in our county jails, and intrude upon state and local prerogatives. In New York State, the county sheriffs, and other local law enforcement personnel are empowered under NYS law to establish and implement policies aimed at the orderly and proper functioning of their jail facilities. The Order and the FCC proposal impermissibly interfere with public safety matters within the exclusive providence of state and local corrections officials, and particularly with my duties in Livingston County to maintain a safe and secure jail.

One such matter is controlling inmate communications. Corrections officials must ensure that essential security features are in place to safeguard against prisoner misuse of telephone privileges for illicit purposes. The security features associated with ICS are a vital tool for law enforcement to combat continued criminal activity inside and outside correctional facilities. Voice and call frequency monitoring ensure that incarcerated persons are not misusing the telephone services to commit crimes outside the prison's walls. Other security features inherent in ICS systems provide valuable tools to protect corrections personnel and the jail population generally from preventing escapes, smuggling of contraband, orchestration of violent crime against prison officials and those outside the prison walls, and to stop prison gangs from communicating with their cohorts outside the facility.

The expense associated with these critical security features cannot be minimized. Security costs are built into the individual ICS rate structure of each correctional facility based on the specific needs and requests of that particular correctional facility. The new rate caps adopted by the FCC will make the deployment of safety and security features economically infeasible for NYS county jails. ICS

providers may be forced to abandon more effective and advanced security features now available at county correctional facilities because the cost is not recoverable.

The FCC's decision to cap interstate and intrastate ICS rates also will significantly reduce the commissions that many NYS county jail facilities receive pursuant to their contracts with ICS providers. County jails rely on commissions to fund critical inmate programs that benefit both the individual inmates and public at large. For example, we offer many programs designed to provide substance abuse treatment to inmates and further address educational, employment, continuity of medical and mental health care, counseling, and life-skills issues.

We are very proud of our jail programs that we offer to inmates and their families, and do not believe that we can operate a safe and secure facility without them.

One of the ways in which these services and programs are funded is through the receipt of commissions that are tendered to the county by the ICS provider. In times of shrinking budgets at the Federal, State and County levels local officials can only continue to offer these important services if they receive adequate funding. Since no other outside funding is available for counties to continue these programs, the elimination of ICS commissions resulting from the FCC's new rate caps will have a devastating effect and cause significant disruptions to the services provided to inmates in Livingston County.

Currently the burden to the taxpayers of Livingston County in providing these programs has in part been offset by ICS commissions. The FCC, by eliminating these commissions, is placing the entire burden on taxpayers. The FCC should ask two critical questions prior to implementing any proposed rules:

1. Should the individuals incarcerated for committing crimes against society (and their families) have any fiduciary responsibility for the enormous costs of the discretionary programs that county jails provide or should this be solely the responsibility of the Livingston County taxpayers?
2. Has the FCC thought through the potential and realistic impact of their proposed rule changes that reduces a revenue stream for the county jails to continue to provide inmate programs and enhanced jail and public safety?

I ask the FCC to stay implementation of the Order pending judicial review until these issues can be fully answered, and further not to extend its jurisdiction and order to intrastate calls. I believe that we have made a compelling demonstration of how the Order and proposal negatively affects the safety and security of our jail, our inmates and staff, and the community at large, as well as our ability to continue offering vital services and programs to inmates. I strongly urge the FCC to grant this petition and further review the effect the Order will have on correctional facilities in Livingston County and all correctional facilities nationwide.

I can be contacted at 585.243.7120 for further comments.

Kind regards,

A handwritten signature in dark ink, appearing to read 'TD' or similar initials, followed by the number '101'.

Thomas J. Dougherty
Sheriff